



***EXECUTIVE
DIRECTOR'S
REPORT***

March 13, 2018

A.

ADMINISTRATIVE MATTERS

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
ADMINISTRATION COMMITTEE			
<u>1. Revised Board Policy Concerning the Allocation of Court Reporter Fees in Hearings</u> Robin Parker; Administration Committee	Consider revised policy that allows the parties to use or not use the Board's contracted court reporter service. The revision would allow additional flexibility with securing a court reporter qualified to provide the services requested.	March 2018	In progress. A revised policy will be presented at the March 13, 2018, General Meeting.
<u>Status Report Concerning Manufacturer and Distributor Compliance with Vehicle Code Sections 3064/3074 and 3065/3075 (Filing of Statutorily Required Schedules and Formulas)</u> Danielle Vare; Administration Committee	Annually letters are sent to all licensed manufacturers and distributors requesting copies of their current delivery and inspection obligations ("PDI"), PDI schedule of compensation, and warranty reimbursement schedule or formula.	January 2018	<u>Completed</u> A status report concerning manufacturer and distributor compliance was presented at the January 24, 2018, General Meeting.
<u>Update Guide to the New Motor Vehicle Board</u> Robin Parker; Administration Committee	Update the <i>Guide to the New Motor Vehicle Board</i> to incorporate statutory and regulatory changes, if any.	January 2018	<u>Completed</u> The revised Guide was adopted at the January 24, 2018, General Meeting.
BOARD DEVELOPMENT COMMITTEE			
<u>1. Host Board Administrative Law Judge Roundtable</u> Robin Parker, Danielle Vare, Board Development Committee	Host a Board Administrative Law Judge ("ALJ") Roundtable for purposes of education and training. Provide an opportunity for the ALJs to meet in an informal setting, exchange ideas, and offer suggestions to improve the case management hearing process.	To be determined	In progress. An ALJ Roundtable will be scheduled in spring 2018.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
2. <u>Solon C. Soteris Employee Recognition Award Recipient</u> Tim Corcoran; Board Development Committee	Compile the nominations provided by staff and select a nominee for the Solon C. Soteris Employee Recognition Award.	August 2018	In progress. The Committee will select a nominee for the Board to consider at the August 2018 General Meeting.
FISCAL COMMITTEE			
1. <u>Quarterly Fiscal Reports</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	Quarterly fiscal reports will be provided to the Committee and scheduled for upcoming Board meetings.	Ongoing	In progress. The 1 st quarter report for fiscal year 2017-2018 was presented at the January 24, 2018, General Meeting. The 2 nd , 3 rd , and 4 th quarter reports are set for March 13, 2018, August 2018, and December 2018.
2. <u>Status Report on the Collection of Fees for the Arbitration Certification Program</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	The staff will provide a report concerning the annual fee collection for the Department of Consumer Affairs, Arbitration Certification Program.	August 2018	In progress. A status report will be provided at the August 2018, General Meeting.
3. <u>Proposed Board Budget for the Next Fiscal Year</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	The staff in conjunction with the Fiscal Committee will discuss and consider the Board's proposed Budget for fiscal year 2017-2018.	August 2018	In progress. The 2017-2018 Budget will be presented at the August 2018, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
4. <u>Annual Discussion and Consideration of the Methods for Determining Board Fees</u> Tim Corcoran; Fiscal Committee	In response to Board Member Brooks' request, a memorandum outlining how the Board fees are calculated every year to ensure the fees are not a tax and are cost-justified, will be presented for Board consideration.	August 2018	In progress. A memorandum will be presented at the August 2018, General Meeting.
<u>Report Concerning Out-of-State Travel Plans</u> Dawn Kindel; Fiscal Committee	The staff will provide a report concerning the out-of-state travel plans for fiscal year 2017-2018.	January 2018	<u>Completed</u> At the January 24, 2018, General Meeting, the members approved the four out-of-state trips.
GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE			
1. <u>Host Industry Roundtable</u> Tim Corcoran, Dawn Kindel, Danielle Vare; Government and Industry Affairs Committee	Host the traditional Industry Roundtable with representatives from car, truck, motorcycle and recreational vehicle manufacturers/distributors, dealers, in-house and outside counsel, associations and other government entities.	2019	In progress. The Industry Roundtable is being postponed until 2019.
POLICY AND PROCEDURE COMMITTEE			
1. <u>Update New Motor Vehicle Board Administrative Law Judges Benchbook</u> Robin Parker; Policy and Procedure Committee	Update the <i>New Motor Vehicle Board Administrative Law Judge's Benchbook</i> .	March 2018	In progress. The revised ALJ Benchbook will be considered at the March 13, 2018, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
<u>2. Amend the Peremptory Challenge Regulation to Limit to Merits Hearings and Make Other Changes Consistent with the Office of Administrative Hearings</u> Robin Parker; Policy and Procedure Committee	In an effort to continue to improve and clarify the Board's case management processes, the Board staff has proposed amending the peremptory challenge regulation to eliminate the requirement of a declaration of prejudice and use language nearly identical to the Office of Administrative Hearings ("OAH"). It is necessary for the Board to deviate slightly from OAH's regulation due to the increased number of law and motion matters filed with the Board and the limited number of ALJs available to hear such motions. Given these differences, the proposed amendments bar peremptory challenges of law and motion and settlement conference ALJs.	March 2018	In progress. Proposed amendments were scheduled for consideration at the November 7, 2017, General Meeting. However, this matter was taken off the agenda pending the appointment of an Executive Director. This matter is being considered at the March 13, 2018, General Meeting.
<u>3. Draft Proposed Regulations to Add References to Code of Civil Procedure Section 1013b</u> Robin Parker, Policy and Procedure Committee	Section 1013b was added to the California Code of Civil Procedure effective January 1, 2018; it pertains to proof of electronic service. The non-substantive changes proposed incorporate this new provision in Sections 551.14 (Request for Informal Mediation), 551.24 (Service; Proof of Service); 555.1 (Service of Petition upon Respondent(s)); and 584 (Service of Protest upon Franchisor.)	March 2018	In progress. The draft proposed regulations will be considered at the March 13, 2018, General Meeting.
<u>Update the Informational Guide for Manufacturers and Distributors</u> Robin Parker; Policy and Procedure Committee	Update the <i>Informational Guide for Manufacturers and Distributors</i> .	January 2018	<u>Completed</u> The revised Guide was adopted at the January 24, 2018, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
<u>Update the Export or Sale- For-Resale Prohibition Policy Guide</u> Robin Parker; Policy and Procedure Committee	Update the <i>Export or Sale-For-Resale Prohibition Policy Guide</i> for Vehicle Code section 3085 protests filed by an association, as defined.	January 2018	<u>Completed</u> The revised Guide was adopted at the January 24, 2018, General Meeting.
<u>Report on the Assignment of Cases to Board Administrative Law Judges</u> Danielle Vare; Policy and Procedure Committee	Annual report on the assignment of cases to Board Administrative Law Judges ("ALJs").	January 2018	<u>Completed</u> The members were provided with a report at the January 24, 2018, General Meeting.
EXECUTIVE COMMITTEE			
<u>1. Rename Hearing Room # 1 "The William G. Brennan Hearing Room"</u> Tim Corcoran; Executive Committee	Rename Hearing Room # 1 "The William G. Brennan Hearing Room", in remembrance of the Board's previous Executive Director who passed away November 2, 2017.	March 2018	In progress. This matter will be considered at the March 13, 2018, General Meeting.
<u>Recruit Candidates for the Executive Director Position</u> Robin Parker; Executive Committee	Recruit candidates for the Executive Director position.	February 2018	<u>Completed</u> At the January 24, 2018, General Meeting the members selected Timothy M. Corcoran for appointment to the Executive Director position. The offer was formally accepted and Tim started February 5, 2018.

B. CASE MANAGEMENT

CASE VOLUME

JANUARY 9, 2018 THROUGH FEBRUARY 27, 2018

VEHICLE CODE SECTION	DESCRIPTION	NEW CASES	RESOLVED CASES	PENDING CASES
3060	Termination	1	2	12
3060	Modification	1	0	28
3062	Establishment	0	1	3
3062	Relocation	0	0	0
3062	Off-Site Sale	0	0	0
3064	Delivery/Preparation Obligations	0	0	0
3065	Warranty Reimbursement	0	0	3
3065.1	Incentive Program Reimbursement	0	0	7
3070	Termination	0	0	0
3070	Modification	0	0	0
3072	Establishment	0	0	0
3072	Relocation	0	0	0
3072	Off-Site Sale	0	0	0
3074	Delivery/Preparation Obligations	0	0	0
3075	Warranty Reimbursement	0	0	0
3076	Incentive Program Reimbursement	0	0	0
3085	Export or Sale-for-Resale	0	0	0
3050(c)	Petition	0	0	0
3050(b)	Appeal	0	0	0
TOTAL CASES:		2	3	53

PENDING CASES

BY CASE NUMBER

ABBREVIATIONS			
ALJ	Administrative Law Judge	Bd.Mtg.	Board Meeting
HRC	Hearing Readiness Conference	IFU	Informal Follow-Up
MH	Merits Hearing	CMH	Continued Merits Hearing
RMH	Resumed Merits Hearing	MSC	Mandatory Settlement Conference
CMSC	Continued Mandatory Settlement Conference	RMSC	Resumed Mandatory Settlement Conference
MTCP	Motion to Compel Production	MTC	Motion to Continue
MTD	Motion to Dismiss	PHC	Pre-Hearing Conference
CPHC	Continued Pre-Hearing Conference	RPHC	Resumed Pre-Hearing Conference
PD	Proposed Decision	POS	Proof of Service
PSDO	Proposed Stipulated Decision and Order	ROB	Ruling on Objections
CROB	Continued Ruling on Objections	RROB	Resumed Ruling on Objections
SC	Status Conference	CSC	Continued Status Conference
RFD	Request for Dismissal		
* Consolidated, non-lead case			

Protests

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
1. PR-2422-15 3-3-15	RSC w/ALJ: 2-27-18 Settlement is pending	Walter Timmons Enterprises, Inc. dba Timmons Subaru v. Subaru of America, Inc.	P: Gavin Hughes R: Mo Sanchez, Lisa Gibson	Termination
2. PR-2453-15 12-15-15	Settlement is pending IFU: 3-22-18	Dick Browning, Inc., dba Browning Mazda, a California Corporation v. Mazda Motor of America, Inc., dba Mazda North American Operations, a California Corporation	P: Alton Burkhalter, Ros Lockwood R: Mo Sanchez, Lisa Gibson	Establishment
3. PR-2470-16 4-23-16	ROB: 3-23-18 HRC: 8-16-18 MH: 9-24-18 (5 days)	Brown Automotive, Inc. dba Puente Hills Nissan v. Nissan North America, Inc.	P: Victor Danhi R: Mo Sanchez, Kevin Colton	Warranty

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
4. PR-2478-16 8-11-16	HRC: 3-1-18 MH: 4-2-18 (8 days)	West Covina Nissan, LLC v. Nissan North America, Inc.	P: Victor P. Danhi, Franjo Dolenac, David N. Tarlow R: Mo Sanchez, Lisa Gibson, Crispin Collins	Warranty
5. PR-2483-16 11-10-16	Proposed Decision August Board Meeting	Folsom Chevrolet, Inc., dba Folsom Chevrolet v. General Motors, LLC	P: Bert Rasmussen, George Koumbis, Franjo Dolenac R: Mark Clouatre, Jake Fischer, Bob Davies	Termination
6. PR-2489-17 1-10-17	Settlement Pending	Tulare SAG, Inc., dba Lampe Chrysler Dodge Jeep Ram v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
7. PR-2491-17* 1-13-17	Settlement Pending	Central Valley Automotive Inc., dba Central Valley Chrysler Jeep Dodge v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
8. PR-2492-17* 1-18-17	Settlement Pending	Ellis Family Stores, LLC, a California limited liability company, dba Fiat of Glendale v. FCA US LLC, a Delaware limited liability company	P: Tim Robinett R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
9. PR-2393-17* 1-18-17	Settlement Pending	Mossy Fiat v. FCA, US, LLC	P: Mark H. Nys R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
10. PR-2494-17* 1-18-17	Settlement Pending	Mossy Alfa Romeo v. FCA, US, LLC	P: Mark H. Nys R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
11. PR-2495-17* 1-18-17	Settlement Pending	Downtown Apex Motors LLC, dba Fiat Puente Hills v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
12. PR-2496-17* 1-18-17	Settlement Pending	Downtown Apex Motors LLC, dba Fiat LA v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
13. PR-2497-17* 1-19-17	Settlement Pending	SMAG LP dba Santa Maria FCA Dodge Jeep Ram Fiat v. Fiat Chrysler Automobiles US, LLC	P: Christian Scali, Bert Rasmussen R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
14. PR-2499-17* 1-19-17	Settlement Pending	Stevens Creek Luxury Imports, Inc. dba AutoNation Alfa Romeo Stevens Creek v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
15. PR-2501-17 1-19-17	Case is tracking corresponding Alfa Romeo/Fiat matters	Stevens Creek Luxury Imports, Inc. dba AutoNation Maserati Stevens Creek v. Maserati North America, Inc.	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
16. PR-2502-17* 1-20-17	Settlement Pending	Baker Motors, Inc., a California corporation, dba Bob Baker Fiat v. FCA US LLC, a Delaware limited liability company	P: Wade W. Paulson R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
17. PR-2503-17* 1-20-17	Settlement Pending	Baker Motors, Inc., a California corporation, dba Bob Baker Fiat Alfa Romeo v. FCA US LLC, a Delaware limited liability company	P: Wade W. Paulson R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
18. PR-2504-17* 1-23-17	Settlement Pending	Costa Arancione, LLC, a California limited liability company, dba Orange Coast Alfa Romeo and Fiat v. FCA, LLC	P: Gregory Ferruzzo R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
19. PR-2505-17* 1-23-17	Settlement Pending	Costa Arancione, LLC, a California limited liability company, dba Orange Coast Alfa Romeo and Fiat v. FCA, LLC	P: Gregory Ferruzzo R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
20. PR-2506-17* 1-23-17	Case is tracking corresponding Alfa Romeo/Fiat matters	Rusnak/Pasadena, dba Rusnak Maserati of Pasadena v. Maserati North America, Inc.	P: Christian Scali R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
21. PR-2507-17* 1-23-17	Settlement Pending	Rusnak/Pasadena dba Rusnak Alfa Romeo v. FCA US LLC	P: Christian Scali R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
22. PR-2511-17* 1-23-17	Settlement Pending	Niello Italian Imports, Inc., dba Niello Alfa Romeo v. FCA US LLC	P: Christian Scali R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
23. PR-2512-17* 1-23-17	Case is tracking corresponding Alfa Romeo/Fiat matters	Niello Italian Imports, Inc., dba Niello Maserati v. Maserati North America, Inc.	P: Christian Scali R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
24. PR-2514-17 2-2-17	Settlement Pending	HWM Auto Corp., dba McKevitt Fiat of Berkeley v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
25. PR-2515-17 2-2-17	Settlement Pending	HWM Auto Corp., dba McKevitt Alfa Romeo v. FCA US LLC	P: Gavin Hughes, Robert Mayville R: Maile Solis, Randy Oyler, Bob Davies, Mary Stewart	Modification
26. PR-2518-17 4-3-17	HRC: 4-24-18 MH: 5-21-18 (15 days)	Shingle Springs Imports, Inc. dba Shingle Springs Honda v. American Honda Motor Co., Inc.	P: Gavin Hughes, Robert Mayville R: Patricia Britton, S. Keith Hutto, Steve McKelvey, Steven McFarland	Termination
27. PR-2520-17 5-2-17	PSDO pending	Par 3 Motors, Inc., dba Concord Mitsubishi v. Mitsubishi Motors North America, Inc.	P: Gavin Hughes, Robert Mayville R: Mo Sanchez	Termination
28. PR-2521-17 5-11-17	SC: 3-23-18 Settlement pending	Alvarez Motor Cars, Inc. dba Alvarez Jaguar, a California corporation v. Jaguar Land Rover North America, LLC	P: Christian Scali, Bert Rasmussen, Franjo Dolenac R: Colm Moran	Termination
29. PR-2523-17 6-12-17	RSC: 3-20-18	O'Gara Coach Company, LLC, a liability company, dba Aston Martin Beverly Hills v. Aston Martin Loganda of North America, Inc.	P: Christian Scali, Bert Rasmussen R: Colm Moran	Termination
30. PR-2526-17 8-11-17	RMSC: 3-7-18 Parties working on settlement	HTMC, LLC, dba Subaru El Cajon v. Subaru of America, Inc.	P: Gavin Hughes, Robert Mayville R: Maurice Sanchez, Lisa M. Gibson	Termination

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
31. PR-2530-17 9-15-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	Asian Pacific Industries, Inc., dba Jaguar Land Rover Stevens Creek v. Jaguar Land Rover North America, LLC (Jaguar)	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Modification
32. PR-2531-17* 9-15-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	Asian Pacific Industries, Inc., dba Jaguar Land Rover Stevens Creek (Jaguar) v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Franchisor Incentive
33. PR-2532-17* 9-15-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	Asian Pacific Industries, Inc., dba Jaguar Land Rover Stevens Creek (Land Rover) v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Modification
34. PR-2533-17* 9-15-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	Asian Pacific Industries, Inc., dba Jaguar Land Rover Stevens Creek (Land Rover) v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Franchisor Incentive
35. PR-2534-17 9-22-17	HRC: 4-11-18 MH: 5-30-18	Porter Auto Group, L.P. v. FCA US LLC (Chrysler)	P: Michael Sieving R: Michael S. Elvin, Jack O. Snyder	Termination
36. PR-2535-17* 9-22-17	HRC: 4-11-18 MH: 5-30-18	Porter Auto Group, L.P. v. FCA US LLC (Dodge)	P: Michael Sieving R: Michael S. Elvin, Jack O. Snyder	Termination
37. PR-2536-17* 9-22-17	HRC: 4-11-18 MH: 5-30-18	Porter Auto Group, L.P. v. FCA US LLC (Jeep)	P: Michael Sieving R: Michael S. Elvin, Jack O. Snyder	Termination
38. PR-2537-17* 9-22-17	HRC: 4-11-18 MH: 5-30-18	Porter Auto Group, L.P. v. FCA US LLC (Ram)	P: Michael Sieving R: Michael S. Elvin, Jack O. Snyder	Termination

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
39. PR-2539-17 10-13-17	ROB: 3-2-18 HRC: 8-24-18 MH: 9-24-18	Barber Group, Inc., a California corporation doing business as Barber Honda v. American Honda Motor Co., Inc., a California corporation	P: Grover H. Waldon, Charles D. Melton, Gavin Hughes, Robert Mayville R: Patricia Britton, S. Keith Hutto, Steven B. McFarland I: Alan Skobin, John Tuell	Establishment
40. PR-2540-17 10-30-17	Parties working on settlement	Mashburn Kawasaki, Inc., dba Kawasaki Simi Valley v. Kawasaki Motors Corp., USA	P: Gavin Hughes, Robert Mayville R: Mo Sanchez, Lisa Gibson	Establishment
41. PR-2541-17 10-30-17	Parties working on settlement. IFU: 3-20-18	Premier Nissan of San Joes, LLC v. Nissan North America	P: Richard J. Ritchie R: Steven M. Kelso, David J. Schaller, H. Camille Papini-Chapla, Esq.	Franchisor Incentive
42. PR-2542-17 11-13-17	MTD: Ruling deferred	Putnam Automotive, Inc., dba Putnam Subaru v. Subaru of America, Inc.	P: Gavin Hughes, Robert Mayville R: Mo Sanchez, Lisa Gibson	Modification Satellite Warranty Facility
43. PR-2543-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	ARBM, Inc., dba Land Rover Livermore v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Franchisor Incentive
44. PR-2544-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	ARBM, Inc., dba Land Rover Livermore v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Modification

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
45. PR-2545-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	ARBM, Inc., dba Jaguar Livermore v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Franchisor Incentive
46. PR-2546-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	ARBM, Inc., dba Jaguar Livermore v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Modification
47. PR-2547-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	British Motor Car Distributors, LTD., dba Jaguar San Francisco v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Franchisor Incentive
48. PR-2548-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	British Motor Car Distributors, LTD, dba Jaguar San Francisco v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Modification
49. PR-2549-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	British Motor Car Distributors, LTD., dba Land Rover San Francisco v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Franchisor Incentive
50. PR-2550-17* 11-14-17	Proposed Order Granting Respondent's MTD March 13, 2018, Board Meeting	British Motor Car Distributors, LTD., dba Land Rover San Francisco v. Jaguar Land Rover North America, LLC	P: Gavin Hughes, Robert Mayville R: Colm Moran, John J. Sullivan	Modification
51. PR-2552-18 1-2-18	Parties working on settlement. IFU: 3-15-18	Putnam Motors, Inc., dba Putnam Lexus v. Toyota Motor Sales, U. S. A, Inc.	P: Michael M. Sieving	Warranty

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
52. PR-2553-18 1-26-18	MTD schedule set but Subaru is demanding arbitration reserving all rights	Putnam Automotive, Inc., dba Putnam Subaru v. Subaru of America, Inc.	P: Gavin Hughes, Robert Mayville R: Mo Sanchez, Lisa Gibson	Termination Satellite Warranty Facility
53. PR-2554-18 1-31-18	Motion to Dismiss pending Motion: 3-8-18 Opposition: 3-22-18 Reply: 3-29-18 Hearing: 4-5-18	Cardinale Oldsmobile GMC Truck, Inc., a California corporation, dba Cardinale Mazda v. Mazda Motor of America, Inc.	P: Tim Robinett, Gary Prudian R: Mo Sanchez, Lisa Gibson, Crispin Collins	Modification

Petitions

CASE NUMBER/ DATE FILED	STATUS	PETITION	COUNSEL
		-----None Pending----	

Appeals

CASE NUMBER/ DATE FILED	STATUS	APPEAL	COUNSEL
		-----None Pending----	

C. JUDICIAL REVIEW

Judicial Review

Either the Protestant/Petitioner/Appellant or Respondent seeks judicial review of the Board's Decision or Final Order by way of a petition for writ of administrative mandamus (Code of Civil Procedure, § 1094.5). The writ of mandamus may be denominated a writ of mandate (Code of Civil Procedure, § 1084).

1. NISSAN NORTH AMERICA, INC. v. NEW MOTOR VEHICLE BOARD; WEST COVINA NISSAN, LLC, Real Party in Interest
California Superior Court, Orange County Case No. 30-2017-00956529
New Motor Vehicle Board No. CRT-274-17
Protest No. PR-2478-16

On October 30, 2017, ALJ Woodward Hagle issued an "Order Denying Respondent's Motion to Dismiss Protest for Lack of Jurisdiction after Sale of Dealership Assets." The issue in this motion was: "does the Board retain jurisdiction to hear and decide a warranty reimbursement claims protest pursuant to Section 3065 after a transaction which divested protestant of its dealership?" This was a case of first impression. The ALJ determined that Respondent "failed to meet its burden of proof. The Board has continuing jurisdiction over the protest and may render a Decision in the matter, despite the fact that West Covina Nissan is no longer a Nissan dealer. Not only did all events alleged in the protest occur while protestant was a Nissan dealer, but the warranty reimbursement claims protest and protest procedures are within the Board's exclusive statutory authority. The matter has been pending since August 11, 2016 and discovery has not been stayed. The Board has special expertise in these matters to adjudicate the claim." Since the order was not dispositive of the protest, it was not considered by the Public Members.

On November 17, 2017, Nissan North America, Inc. ("Nissan") filed a Petition for Writ of Administrative Mandate in the Orange County Superior Court; the Board was served on November 20, 2017. Nissan argues that no court has ruled and no statute provides that the Board may adjudicate disputes between a former franchisee and its former franchisor. Nissan contends the ALJ's Order is wrong because the Board has no jurisdiction to decide any matter not involving a current dealer/franchisee and that when West Covina Nissan sold its Nissan dealership, it lost the ability to appear before the Board. It further argues that the Court has jurisdiction in this matter under two exceptions to the doctrine of exhaustion of administrative remedies.

Kathryn Doi, Vice President and Attorney Member, determined there is a State interest at issue in the writ so the Board will participate via the Attorney General's Office. The writ challenges the Board's jurisdiction and could affect future Board cases. Michael Gowe, Deputy Attorney General, has been retained to represent the Board.

Nissan's Ex Parte Motion to Stay was denied on November 28, 2017. Nissan also filed a Motion to Stay that was heard on January 8, 2018, and *ultimately denied*. The Board's answer was filed February 2, 2018.

A case management conference is set for April 23, 2018.

2. FIAT CHRYSLER AUTOMOBILES US LLC v. CALIFORNIA NEW MOTOR VEHICLE BOARD; DEPENDABLE DODGE, INC., Real Party in Interest
California Superior Court, Sacramento County Case No. 34-2017-80002584
New Motor Vehicle Board No. CRT-273-17
Protest Nos. PR-2435-15 and PR-2436-15

At the March 15, 2017, General Meeting, the Public Members of the Board adopted ALJ Kymberly Pipkin's Proposed Decision as the Board's final Decision. The Decision sustained the consolidated Protests and did not permit FCA to terminate Dependable's RAM and Dodge franchises. On April 24, 2017, Fiat Chrysler Automobiles US, LLC's ("FCA") filed a "Petition for Writ of Administrative Mandate and Writ of Traditional Mandate." FCA contends that the ALJ denied it a fair hearing and prejudicially abused her discretion by failing to proceed in the manner required by law, making findings unsupported by substantial evidence, and reaching a decision unsupported by findings.

FCA seeks: (1) issuance of a writ of administrative mandamus or alternatively traditional mandate, directing the Board to set aside and vacate its Decision and to adopt and issue a new and different decision overruling Dependable's protests and allowing the termination of its FCA Dealer Agreements. Alternatively, (2) issuance of a writ of administrative mandamus or traditional mandate, directing the Board to set aside and vacate its Decision and to order a new hearing with a new ALJ.

Kathryn Doi, Vice Board President, has determined that there is not a state interest at issue in the writ so the Board will not participate via the Attorney General's Office.

Dependable Dodge, Inc., ("Dependable") filed its answer on May 30, 2017. This matter is fully briefed. The hearing is set for January 26, 2018, at 9:00 a.m. in Department 28.

On January 22, 2018, the Court vacated the January 26, 2018 hearing on the petition for writ of mandate due to Petitioner's lodging of a significant portion of the administrative record under conditional seal pending the Motion to Seal Court Records. The motion to seal originally set for March 16 will now be heard April 20, 2018, at 10:00 a.m. in Department 28. A hearing on the writ is set for June 15, 2018, at 10:00 a.m. in Department 28.

3. TOYOTA MOTOR SALES, U.S.A., INC., a California corporation v. CALIFORNIA NEW MOTOR VEHICLE BOARD, a California state agency; PUTNAM MOTORS, INC. dba PUTNAM LEXUS, a California corporation, Real Party in Interest
California Superior Court, Sacramento County Case No. 34-2015-80002081
New Motor Vehicle Board No. CRT-270-15

By letter dated March 20, 2015, Toyota Motor Sales, U.S.A., Inc. (“Toyota”) requested that the Board grant it permission to conduct a warranty audit from September 2010 to the present “based on a pattern of false claims for warranty and recall service submitted by Putnam Motors, Inc. dba Putnam Lexus (‘Putnam Lexus’) with the intent to defraud Lexus and Lexus customers.” The period requested is beyond the 9 months provided for in Vehicle Code section 3065 and required a Board order. After a lengthy discussion, at the March 25, 2015, General meeting, the Public Members denied Toyota’s request.

On April 24, 2015, Toyota filed a Petition for Writ of Administrative Mandate in the Sacramento County Superior Court. Toyota contends that the Board’s denial of its “request for an extended audit constitutes an abuse of discretion because the Board’s Order ... [was] not supported by the evidence and because the Board has unlawfully adopted unwritten standards that manufacturers allegedly must follow before obtaining [such] an order...” which, is a violation of the Administrative Procedure Act. Putnam Lexus filed its answer on June 8, 2015.

Glenn Stevens, Board President at the time, determined that there is not a state interest at issue in the writ so the Board will not participate via the Attorney General’s Office.

This matter is fully briefed. The hearing originally scheduled for April 29, 2016, was continued to October 7, 2016, March 3, 2017, August 4, 2017, February 23, 2018, *and now June 29, 2018*, to allow the parties to continue settlement discussions.

D.
NOTICES FILED
PURSUANT TO
VEHICLE CODE SECTIONS
3060/3070 AND 3062/3072

NOTICES FILED

PURSUANT TO VEHICLE CODE SECTIONS 3060/3070 AND 3062/3072

JANUARY 8, 2018 THROUGH FEBRUARY 27, 2018

These are generally notices relating to termination or modification (sections 3060 and 3070) and establishment, relocation, or off-site sales (sections 3062 and 3072).

SECTION 3060/3070	No.	SECTION 3062/3072	No.
ACURA		ACURA	
AUDI		AUDI	1
BMW		BMW (includes Mini)	
FCA (Chrysler, Jeep, Dodge, RAM)	16	FCA (Chrysler, Jeep, Dodge, RAM)	
FCA (Alfa Romeo, FIAT)	6	FCA (Alfa Romeo, FIAT)	
FCA (Maserati)	4	FCA (Maserati)	
FERRARI		FERRARI	
FORD		FORD	
GM		GM (Buick)	
HARLEY-DAVIDSON		HARLEY-DAVIDSON	
HONDA		HONDA	
HYUNDAI		HYUNDAI	
INFINITI		INFINITI	
JAGUAR		JAGUAR	
KAWASAKI		KAWASAKI	
KTM		KTM	
KIA		KIA	
LEXUS		LEXUS	
MAZDA		MAZDA	
MERCEDES		MERCEDES	
MINI		MINI	
NISSAN		NISSAN	
POLARIS	2	POLARIS	
PORSCHE		PORSCHE	
SAAB-SCANIA		SAAB-SCANIA	
SUBARU		SUBARU	
SUZUKI		SUZUKI	
TOYOTA		TOYOTA	
VOLKSWAGEN		VOLKSWAGEN	
VOLVO		VOLVO	
YAMAHA		YAMAHA	
MISCELLANEOUS		MISCELLANEOUS	1
TOTAL	28	TOTAL	2